

Remarks

The present response is responsive to the non-final Office Action mailed in the above referenced case on February 08, 2006. Claims 1-6, 8-31 and 33 are standing for examination. The Examiner has made a new 35 U.S.C. §102(b) rejection of all of the standing claims over newly applied reference Beck, US 6332154, hereinafter Beck, and has further rejected claims 6 and 16 under 35 U.S.C. 112.

Applicant has carefully studied the prior art reference Beck, which is commonly owned with the present application, and with which the applicant and his agents are intimately familiar, and have also carefully considered the Examiner's statements and reasoning in the instant Office Action. In response, applicant presents facts and arguments below to clearly show that the teaching of Beck is not the same, and does not anticipate the limitations in the standing claims.

As to the §112 rejections of claims 6 and 16, applicant has amended both claims to correct the language.

As to the §102(b) rejections of claims 1 and 19 over Beck, the applicant wishes to point out that in the broad view of the technology of both cases, this one and the reference Beck, there is a communication center, agents of the communication center, these being persons who work at computerized stations typically with LAN communication with communication center systems, and clients, who are persons outside the communication center, who may be customers or persons calling agents of the center for some service. The clients may communicate with the agents at the center in a number of different ways. The Examiner's attention is directed to the fact that the communication center, agents of the center, and clients with client devices are all introduced in the preamble of claim 1 as separate and distinct entities.

The Examiner quotes applicant's claim language of "...customer presence software operating at each client device for monitoring client and client device status..." in his analysis, and relies on Beck col. 9, lines 20-22, which teaches client-side SW operating on PC/VDU 39 as a CINOS-agent desktop interface for interacting with the parent

CINOS operating system. The "client" reference in this section is to distinguish the SW from the software residing on the servers at the communication center. The Examiner will notice by referring to Fig. 1 of applicant's specification, that PC/VDU 39 is a part of an agent station at the communication center. This is NOT equipment operated by a client of the communication center, as implied by the Examiner.

In regard to the same limitation the Examiner further relies on Beck, col. 5, lines 57-60, in the Summary section of Beck, which is a part of a narrative recitation of claim 7 of Beck, dependent on claim 1. The Examiner is keying on the words "monitors client activity" to read on the presence determining function claimed. If the Examiner were to read claims 1 and 7, he would realize that the activity referred to is a part of a "self-help wizard", which includes a transaction history for a particular client, and that which is being monitored is the client's transaction history activity, not his presence or status of a communication device he is using.

So the reliance on Beck for the first limitation of applicant's claim 1 fails, because there is no teaching in Beck, certainly not in the passages relied-upon, to any presence software operating on a device used by a client of the communication center.

The Examiner relies on the same passages he misinterpreted in regard to the first limitation to try to establish teaching in the art equivalent to the second limitation. But the passages do not teach what the Examiner alleges, so the argument against the second limitation fails as well. The same is true for "characterized" clause. There just is no teaching in Beck for clients to be equipped with devices operating presence software capable of interacting with presence software at the communication center; therefore a §102(b) rejection over Beck must fail.

So claims 1 and 19 are patentable to the applicant over Beck, and claims 2-6 and 8-18, depended directly or indirectly from claim 1, are patentable at least as depended from a patentable claim.

The facts and arguments drawn from the facts as presented above on behalf of claim 1 apply equally well to method claim 19, which is therefore patentable over Beck as well, and claims 20-31 and 33 are therefore patentable at least as depended from a

patentable claim.

In addition to the above, the applicant wishes to point out that the present case was examined and rejected over different art until the case was appealed, at which time the rejections were apparently withdrawn and a new search was made, and the art of Beck was found and applied as the best art against the case. Now that it has been shown that Beck also does not anticipate the limitations of the standing claims, the applicant hopes the Office will now allow this case rather than resorting to still further searches to find still further art which might be used to create experimental rejections to continue to deny the inventor his right to a speedy and thorough examination. The inventor is entitled to receive all of the art, and a thorough examination over the art, rather than this piecemeal approach of some now, some later.

As all of the claims standing for examination have been demonstrated to be patentable over the art of record, applicant respectfully requests reconsideration, and that the present case be passed quickly to issue. If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,
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